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**Committee on the Peaceful Uses of Outer Space**
**Sixty-first session**
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# Draft report

# Chapter III

# Recommendations and decisions

## D. Report of the Legal Subcommittee on its fifty-seventh session

1. The Committee took note with appreciation of the report of the Legal Subcommittee on its fifty-seventh session (A/AC.105/1177), which contained the results of its deliberations on the items considered by the Subcommittee in accordance with General Assembly resolution 72/77.

2. The representatives of Austria, China, Germany, Indonesia, Japan, Pakistan, the Russian Federation and the United States made statements under the item. Statements were also made by the representative of Ecuador on behalf of the Group of 77 and China, and the representative of Argentina on behalf of the Group of Latin American and Caribbean States. During the general exchange of views, statements relating to the agenda item were also made by other member States.

3. The Committee expressed its appreciation to Andrzej Miszal (Poland) for his able leadership as Chair during the fifty-seventh session of the Subcommittee.

4. Some delegations expressed the view that more effective and proactive efforts were needed to increase awareness that it is important to comply with international space law when implementing space activities and programmes. The delegations expressing this view also expressed the view that the Office for Outer Space Affairs and Member States should do more to foster cooperation and facilitate the sharing of knowledge and expertise in international space activities.

### 1. Information on the activities of international intergovernmental and non-governmental organizations relating to space law

5. The Committee took note of the discussion of the Subcommittee under the item entitled "Information on the activities of international intergovernmental and non-governmental organizations relating to space law", as reflected in the report of the Subcommittee (see A/AC.105/1177, paras. 48–65).

6. The Committee noted the important role of intergovernmental and international non-governmental organizations and their contribution to its endeavours to promote



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the development, strengthening and furtherance of understanding of international space law.

7. The Committee also noted that it was important to continue to exchange information among the Subcommittee and intergovernmental and international non-governmental organizations on recent developments in the area of space law. It endorsed the recommendation of the Subcommittee that such organizations should again be invited to the Subcommittee at its fifty-eighth session to report on their activities relating to space law.

## 2. Status and application of the five United Nations treaties on outer space

8. The Committee took note of the discussion of the Subcommittee under the item on the status and application of the five United Nations treaties on outer space, as reflected in the report of the Subcommittee (see A/AC.105/1177, paras. 66–79).

9. The Committee endorsed the decisions and recommendations of the Subcommittee and its Working Group on the Status and Application of the Five United Nations Treaties on Outer Space, which had been reconvened under the chairmanship of Bernhard Schmidt-Tedd (Germany) (see A/AC.105/1177, para. 79, and annex I, paras. 7, 8, 11 and 12).

10. Some delegations expressed the view that the Legal Subcommittee was the primary multilateral forum for States to pursue the progressive development of the legal regime and the global governance of outer space activities.

11. Some delegations expressed the view that new legal challenges arising from the continuous development of space science and technology, such as space resources exploitation, large constellations and space debris remediation, as well as the emergence of new space actors, had to be addressed on a multilateral basis.

12. Some delegations expressed the view that, although non-legally binding instruments had been a success in that they guided States in conducting their activities in outer space in a safe and secure manner, they should not replace treaties and custom as the valuable sources of international law that they are. The delegations expressing this view also expressed the view that the gradual development of international space law through binding treaties should be carried out within the Legal Subcommittee.

13. The view was expressed that the universality of the five United Nations treaties on outer space should be strongly supported and promoted, and that effective implementation of the treaties required broad adherence due to the increasing number of parties holding a stake in outer space activities.

14. Some delegations expressed the view that the guidance document envisioned under thematic priority 2 of UNISPACE+50 (Legal regime of outer space and global governance: current and future perspectives) and developed within the Working Group on the Status and Application of the Five United Nations Treaties on Outer Space, could offer valuable guidance to States wishing to become a party to the five United Nations treaties on outer space and could thus help to promote the universality of those treaties, greater adherence to them and the progressive development of international space law.

15. The view was expressed that the guidance document envisioned under thematic priority 2, once agreed, would contain a section addressing the interlinkages between the treaties, principles and other instruments under the legal regime of outer space and the guidelines on the long-term sustainability of outer space.

## 3. Matters relating to the definition and delimitation of outer space and the character and utilization of the geostationary orbit, including consideration of ways and means to ensure the rational and equitable use of the geostationary orbit without prejudice to the role of the International Telecommunication Union

16. The Committee took note of the discussion of the Subcommittee under the agenda item on matters relating to the definition and delimitation of outer space and

the character and utilization of the geostationary orbit, including consideration of ways and means to ensure the rational and equitable use of the geostationary orbit without prejudice to the role of ITU, as reflected in the report of the Subcommittee (A/AC.105/1177, paras. 80–110).

17. The Committee endorsed the recommendations of the Subcommittee and its Working Group on the Definition and Delimitation of Outer Space, reconvened under the chairmanship of José Monserrat Filho (Brazil) (A/AC.105/1177, paras. 82–83, and annex II, para. 11).

18. Some delegations expressed the view that the absence of a consensus, despite lengthy debates, on a clear and universal definition and delimitation of outer space, was a matter of concern. The delegations expressing this view were also of the view that the definition and delimitation of outer space is a very important topic that should be kept on the agenda of the Subcommittee and that more work should be done to establish a legal regime applicable to airspace and outer space.

19. The view was expressed that the rationale for the delimitation of outer space and airspace at between 100 km and 110 km above sea level should be based on comprehensive scientific, technical, and physical information about the atmospheric layers, the maximum altitude that can be reached by aircraft capacity, the perigee of spacecraft and the Kármán Line.

20. The view was expressed that the legal regime for outer space was different from the legal regime for airspace in that the regime for airspace was guided by the principle of sovereignty. The geostationary orbit was an integral part of outer space because it was not subject to national appropriation by claim of sovereignty, by means of use or occupation or by any other means, including by means of use or repeated use.

21. Some delegations expressed the view that the geostationary orbit, a limited natural resource clearly in danger of saturation, needed to be used rationally and should be available to all States, irrespective of their current technical capacities. That would give States access to the geostationary orbit under equitable conditions, bearing in mind, in particular, the needs and interests of developing countries and the geographical position of certain countries, and taking into account the processes of ITU and relevant norms and decisions of the United Nations.

22. Some delegations expressed the view that the geostationary orbit was not subject to national appropriation by claim of sovereignty, by means of use, repeated use or occupation, or by any other means, and that its utilization is governed by applicable international law, including the Outer Space Treaty and ITU instruments and regulations.

23. Some delegations expressed the view that the utilization by States of the geostationary orbit on a "first come, first served" basis was unacceptable and that the Subcommittee should therefore develop a legal regime guaranteeing equitable access to orbital positions for States in accordance with the principles of the peaceful use and non-appropriation of outer space.

24. The view was expressed that there was a need for a comprehensive legal principle to guide the elaboration of a sui generis regime governing the utilization of the geostationary orbit.

25. Some delegations expressed the view that, in order to ensure the sustainability of the geostationary orbit and to assure guaranteed and equitable access to it for all nations according to their needs, in particular emerging spacefaring countries, it was necessary to keep the issue on the agenda of the Subcommittee and to explore it further by establishing working groups and legal and technical intergovernmental panels as necessary.

**4. National legislation relevant to the peaceful exploration and use of outer space**

26. The Committee took note of the discussion of the Legal Subcommittee under the item on national legislation relevant to the peaceful exploration and use of outer space, as reflected in the report of the Subcommittee (see A/AC.105/1177, paras. 111–118).

27. The Committee noted with satisfaction that some States members of the Committee continued to implement, or were considering initiating the implementation of, the recommendations on national legislation relevant to the peaceful exploration and use of outer space contained in General Assembly resolution 68/74.

28. The Committee agreed that the general exchange of information on national legislation relevant to the peaceful exploration and use of outer space allowed States to gain understanding of existing national regulatory frameworks and to share experiences on national practices, and that the results achieved under the agenda item were highly useful for both developing and developed States when establishing or improving their national regulatory frameworks.

29. Some delegations expressed the view that in its provision of technical and capacity-building assistance, the Committee should focus on member States that have identified a need for supplementary regulation through the exchange of information on best practices to improve their domestic laws.

**5. Capacity-building in space law**

30. The Committee took note of the discussion of the Subcommittee under the item on capacity-building in space law, as reflected in the report of the Subcommittee (see A/AC.105/1177, paras. 119–136).

31. The Committee endorsed the recommendation of the Subcommittee on this agenda item (see A/AC.105/1177, para. 136).

32. The Committee agreed that, to build the national capacity necessary to ensure that the increasing number of participants in space activities complied with international space law, international cooperation in research, training and education in space law was essential.

33. The Committee reaffirmed that the regional centres for space science and technology education, affiliated to the United Nations, played an important role in providing teaching and training opportunities in space law. The Committee noted that the regional centres could be used to provide more opportunities for academic linkages with other institutes and universities, as appropriate.

34. The Committee noted that capacity-building in space law was a fundamental tool that should be enhanced through international cooperation. One delegation was of the view that greater support was needed from the Office and member States to foster both North-South and South-South cooperation to facilitate the sharing of knowledge and expertise in the field of space law.

35. The Committee welcomed with appreciation the upcoming first United Nations Conference on Space Law and Policy, co-organized with the Russian Federation. The Conference was to be hosted by the State Space Corporation "Roscosmos" in Moscow from 11 to 13 September 2018. The Committee noted that the Conference was a follow-up to the long-standing series of dedicated workshops held for more than a decade in cooperation with member States.

36. Some delegations expressed the view that capacity-building in space law had a direct impact on the objectives under UNISPACE+50 thematic priority 2, since capacity-building would encourage more States to apply for membership of the Committee and to ratify the space treaties.

37. Some delegations expressed the view that in its provision of technical assistance, the Committee should focus on member States that wished to develop their domestic law.

## 6. Review and possible revision of the Principles Relevant to the Use of Nuclear Power Sources in Outer Space

38. The Committee took note of the discussion of the Subcommittee under the item on the review and possible revision of the Principles Relevant to the Use of Nuclear Power Sources in Outer Space, as reflected in the report of the Subcommittee (see A/AC.105/1177, paras. 137–144).

39. Some delegations expressed the view that there should be greater interaction and coordination between the Legal Subcommittee and the Scientific and Technical Subcommittee to ensure a comprehensive discussion of different aspects relating to the use of nuclear power sources in outer space, bearing in mind that the work of the two Subcommittees should be complementary.

## 7. General exchange of information and views on legal mechanisms relating to space debris mitigation and remediation measures, taking into account the work of the Scientific and Technical Subcommittee

40. The Committee took note of the discussion of the Legal Subcommittee under the item on the general exchange of information and views on legal mechanisms relating to space debris mitigation and remediation measures, taking into account the work of the Scientific and Technical Subcommittee, as reflected in the report of the Legal Subcommittee (see A/AC.105/1177, paras. 145–179).

41. The Committee endorsed the decisions of the Subcommittee as reflected in its report (see A/AC.105/1177, para. 179).

42. The Committee noted with satisfaction that the endorsement by the General Assembly, in its resolution 62/217, of the Space Debris Mitigation Guidelines of the Committee was a crucial step in providing all spacefaring nations with guidance on ways to mitigate the problem of space debris, and urged all Member States of the United Nations to consider voluntary implementation of the Guidelines.

43. The Committee noted with satisfaction that some States had taken measures to enforce the implementation of internationally recognized guidelines and standards relating to space debris through relevant provisions in their national legislation.

44. The Committee agreed that States members of the Committee and international intergovernmental organizations having permanent observer status with the Committee should be invited to further contribute to the compendium of space debris mitigation standards adopted by States and international organizations. They should do so by informing the Legal Subcommittee about any relevant legislation or standards they may have adopted or by updating any information they may have provided earlier, using the template provided for that purpose. The Committee also agreed that all other States Members of the United Nations should be invited to contribute to the compendium and encouraged those other States that had such regulations or standards to provide information on them.

45. Some delegations expressed the view that there was contention regarding the removal of space debris without prior consent or authorization of the States of registry. The delegations expressing that view underscored the importance of registering space objects and of placing the responsibility for decongesting the space environment on those actors responsible for proliferation of the debris.

46. The view was expressed that the Subcommittee should thoroughly analyse the views of member States on the necessity of developing regulatory frameworks for space debris mitigation, and that that work should be carried out in close coordination with the Scientific and Technical Subcommittee under the agenda item on the long-term sustainability of outer space activities.

47. The view was expressed that all States conducting space activities should behave in a responsible manner in order to maintain the safety and the sustainability of outer space activities.

48. The view was expressed that it was important to address all technical and legal issues related to space debris, such as space traffic management, active debris removal and the servicing of space vehicles orbiting the Earth.

## 8. General exchange of information on non-legally binding United Nations instruments on outer space

49. The Committee took note of the discussion within the Subcommittee under the item on the general exchange of information on non-legally binding United Nations instruments on outer space, as reflected in the report of the Subcommittee (see A/AC.105/1177, paras. 180–192).

50. The Committee noted with appreciation the compendium on mechanisms adopted by States and international organizations in relation to non-legally binding United Nations instruments on outer space made available on a dedicated web page of the Office.

51. The Committee invited States members of the Committee and international intergovernmental organizations having permanent observer status with the Committee to submit their responses to the Secretariat for inclusion in the compendium and to keep them updated.

52. Some delegations expressed the view that, although non-legally binding instruments had served to guide States and other actors in conducting their activities in outer space in a safe and secure manner, they should not replace treaties and custom as the valuable sources of international law that they are. Those delegations were also of the view that, although such instruments played an important role in complementing and supporting the United Nations treaties on outer space, they could not serve as a substitute for existing legally binding instruments, nor should they hinder the progressive development of international space law, which should be conducted by the Legal Subcommittee.

53. Some delegations reiterated the importance of the Committee's Declaration on International Cooperation in the Exploration and Use of Outer Space for the Benefit and in the Interest of All States, Taking into Particular Account the Needs of Developing Countries as an instrument that promoted international cooperation with a view to maximizing the benefits of space applications for all States and called on all spacefaring nations to promote and foster international cooperation on an equitable basis.

54. Some delegations expressed the view that the Committee should not only serve as a platform to encourage Member States to adhere to the five United Nations treaties on outer space, but in its provision of technical assistance and capacity-building should also focus on those Member States that have identified the need for supplementary regulation through the exchange of information on best practices to improve their domestic laws.

## 9. General exchange of views on the legal aspects of space traffic management

55. The Committee took note of the discussion of the Subcommittee under the item titled "General exchange of views on the legal aspects of space traffic management, as reflected in the report of the Subcommittee" (see A/AC.105/1177, paras. 193–212).

56. The Committee endorsed the recommendation by the Legal Subcommittee to continue to consider the item, in particular in view of the increasingly complex and congested space environment due to the growing number of objects, the diversification of actors and the increase in activities in outer space, all of which increased the potential for collisions.

57. The view was expressed that before the Legal Subcommittee started deliberations on space traffic management, the Scientific and Technical Subcommittee should thoroughly analyse the technical issues involved, because only

a well-sequenced and coordinated approach could ensure progress in space traffic management in the near future.

58. The view was expressed that space traffic management was closely related to the safety and security of space operations, and that space traffic management could be developed and its complexities addressed only through international coordination and decision-making within the framework of the United Nations.

## 10. General exchange of views on the application of international law to small-satellite activities

59. The Committee took note of the discussion of the Legal Subcommittee under the item titled "General exchange of views on the application of international law to small-satellite activities", as reflected in the report of the Subcommittee (see A/AC.105/1177, paras. 213–228).

60. The Committee noted with satisfaction that the item continued to be on the agenda of the Subcommittee and agreed that its inclusion helped to address and raise awareness of issues relating to the use of small satellites by various actors.

61. Some delegations expressed the view that, in order to ensure the safe and responsible use of outer space in the future, it was important to include small-satellite missions, as appropriate, in the scope of application of international and national regulatory frameworks.

62. Some delegations expressed the view that the existing legal regime on outer space ensured the safety, transparency and sustainability of operations involving small-satellite activities and that no ad hoc legal regime or other mechanism should be created that might impose limitations on the design, construction, launch and use of space objects.

63. The Committee noted that the questionnaire on the application of international law to small-satellite activities (see A/AC.105/1177, annex I, para. 8 and appendix II) had been useful in guiding discussions and deliberations under the agenda item.

## 11. General exchange of views on potential legal models for activities in exploration, exploitation and utilization of space resources

64. The Committee took note of the discussion of the Subcommittee under the item entitled "General exchange of views on potential legal models for activities in exploration, exploitation and utilization of space resources", as reflected in the report of the Subcommittee (see A/AC.105/1177, paras. 229–265).

65. Some delegations expressed the view that there was a need to further develop a common understanding of the principles relevant to the utilization of space resources set out in the five United Nations treaties on outer space through a multilateral process.

66. The view was expressed that all stakeholders, including both government and private actors, should closely cooperate so that future activities in exploration, exploitation and the utilization of space resources would be developed in a proper and practical manner as well as in accordance with international law.

67. The view was expressed that the discussions taking place in the Legal Subcommittee to formulate an international regulatory regime for activities in the exploration, exploitation and utilization of space resources should be supported.

68. The view was expressed that developing a regulatory regime for the exploitation of space resources was the right of the international community as a whole and that any unilateral approach was likely to raise uncertainty over the validity and application of international law.

69. The view was expressed that an international regime for the exploitation of space resources should be developed within the Committee and its Subcommittees,

thereby taking into account the interests of all States irrespective of their degree of economic or scientific development, while paying due regard to the investments of individual States and private companies.

70. The view was expressed that a working group on the exploration, exploitation, and utilization of space resources should be established under the Legal Subcommittee in order to fully explore this issue taking a multilateral approach.

## 12. Proposals to the Committee on the Peaceful Uses of Outer Space for new items to be considered by the Legal Subcommittee at its fifty-eighth session

71. The Committee took note of the discussion of the Subcommittee under the item on proposals to the Committee for new items to be considered by the Legal Subcommittee at its fifty-eighth session, as reflected in the report of the Subcommittee (see A/AC.105/1177, paras. 266–273).

72. On the basis of the deliberations of the Legal Subcommittee at its fifty-seventh session, the Committee agreed that the following substantive items should be considered by the Subcommittee at its fifty-eighth session:

*Regular items*

1. Adoption of the agenda.
2. Statement by the Chair.
3. General exchange of views.
4. Information on the activities of international intergovernmental and non-governmental organizations relating to space law.
5. Status and application of the five United Nations treaties on outer space.
6. Matters relating to:
   (a) The definition and delimitation of outer space;
   (b) The character and utilization of the geostationary orbit, including consideration of ways and means to ensure the rational and equitable use of the geostationary orbit without prejudice to the role of the International Telecommunication Union.
7. National legislation relevant to the peaceful exploration and use of outer space.
8. Capacity-building in space law.

*Single issues/items for discussion*

9. Review and possible revision of the Principles Relevant to the Use of Nuclear Power Sources in Outer Space.
10. General exchange of information and views on legal mechanisms relating to space debris mitigation and remediation measures, taking into account the work of the Scientific and Technical Subcommittee.
11. General exchange of information on non-legally binding United Nations instruments on outer space.
12. General exchange of views on the legal aspects of space traffic management.
13. General exchange of views on the application of international law to small-satellite activities.
14. General exchange of views on potential legal models for activities in exploration, exploitation and utilization of space resources.

*New items*

15. Proposals to the Committee on the Peaceful Uses of Outer Space for new items to be considered by the Legal Subcommittee at its fifty-ninth session.

73. The Committee agreed that the Working Group on the Status and Application of the Five United Nations Treaties on Outer Space and the Working Group on the Definition and Delimitation of Outer Space should be reconvened at the fifty-eighth session of the Legal Subcommittee.

74. The Committee endorsed the agreement reached by the Subcommittee that the International Institute of Space Law and the European Centre for Space Law should again be invited to organize a symposium, to be held during the fifty-eighth session of the Subcommittee (see A/AC.105/1177, para. 272).